

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JEFFREY MERCADO, TYRONE PRINGLE,
ADAM ROMAN, KEVIN KNOIS, and EDWARD
KALANZ, on behalf of themselves and others
similarly situated,

Plaintiffs,

-against-

METROPOLITAN TRANSPORTATION
AUTHORITY and TRIBOROUGH BRIDGE AND
TUNNEL AUTHORITY,

Defendants.

ANALISA TORRES, District Judge:

The Court has reviewed Plaintiffs' letter dated August 2, 2023. ECF No. 140. Plaintiffs request that the Court "issue an order pursuant to Rule 25 of the Federal Rules of Civil Procedure . . . substituting Ray Anthony Lugo, administrator of the estate of his father, Raymond Michael Lugo, decedent, as a party plaintiff in this action." *Id.* at 1. For the reasons stated below, Plaintiffs' request is GRANTED.

Federal Rule of Civil Procedure 25(a)(1) permits a court to order substitution "[i]f a party dies and the claim is not extinguished." To substitute a party, "(1) the motion must be timely; (2) the claims must survive the decedent's death, and (3) the party sought to be substituted for the decedent must be a proper party." *Lai Yoong Low v. Tian Yu Inc.*, No. 12 Civ. 7237, 2015 WL 1011699, at *2 (S.D.N.Y. Mar. 9, 2015).

Plaintiffs' request satisfies the three elements. The motion was filed with the notification of death and, therefore, was within the ninety-day period set forth by Rule 25. *Fed. R. Civ. P. 25(a)(1); Lai Yoong Low*, 2015 WL 1011699, at *2 & n.1. The claims at issue are Fair Labor Standards Act claims, which survive the death of a party. *Id.* at *3; *accord Acebal v. United States*, 60 Fed. Cl. 551, 556–57 (2004). And Ray Anthony Lugo is a proper party because, as the voluntary administrator of Raymond Michael Lugo's estate, ECF No. 140-2, he has been "lawfully designated by state authority to represent the deceased's estate." *Badalamenti v. Country Imported Car Corp.*, 10 Civ. 4993, 2012 WL 6061639, at *9 (E.D.N.Y. Dec. 5, 2012).

Accordingly, Plaintiffs' request to substitute Ray Anthony Lugo as a party plaintiff is GRANTED. The Clerk of Court is directed to terminate the motion at ECF No. 140.

SO ORDERED.

Dated: October 19, 2023
New York, New York

USDC SDNY
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20 Civ. 6533 (AT)

ORDER


ANALISA TORRES
United States District Judge